IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

Crl.MC.No. 2618 of 2005()

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ST.195/2004 of JUDL. MAGISTRATE OF FIRST CLASS COURT-II, TRIVANDRUM

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PETITIONER: ACCUSED

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1. AYYAPPAN, AGED 57 YEARS,
   S/O.VELAYUDHAN, INDIRA BHAVAN,
   TC 1/1876, TAGORE GARDENS, KUMARAPURAM,
   THAMARABHAGOM, PATTOM VILLAGE, MEDICAL COLLEGE
   WARD, THIRUVANANTHAPURAM.

2. BIJU, AGED 32 YEARS,
   S/O.AYYAPPAN, TC 1/1876, INDIRA BHAVAN,
   THAMARA BHAGAM, KUMARAPURAM, PATTOM VILLAGE,
   MEDICAL COLLEGE WARD, THIRUVANANTHAPURAM.

3. SREEKANTAN, AGED 41 YEARS,
   S/O.KRISHNAN, ANITHA BHAVAN,
   THAMARABHAGOM, KUMARAPURAM, PATTOM VILLAGE,
   MEDICAL COLLEGE WARD, THIRUVANANTHAPURAM.

BY ADV. SRI.P.VIJAYA BHANU
SMT.P.MAYA

RESPONDENTS: STATE & COMPLAINANT

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1. STATE OF KERALA,
   REP. BY PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

2. KUMAR, AGED 41 YEARS,
   S/O.KRISHNAN, KRISHNA SREE HOUSE,
   HOUSE NO.115, STREET NO.4, YAMUNA NAGAR,
   KURYATHI WARD, MANACAUD VILLAGE,
   THIRUVANANTHAPURAM.

3. AYYAPPAN, AGED 52 YEARS,
   S/O.KRISHNAN, KRISHNA NIVAS,
   TC 39/1780, YAMUNA NAGAR, KURYATHI WARD,
   MANACAUD VILLAGE.

R1 BY PUBLIC PROSECUTOR SRI.P.RAVINDRA BABU

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 08/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.P.BALACHANDRAN, J.

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Crl. M.C. No.2618 of 2005

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Dated this the 8th day of October, 2007.

ORDER

Heard counsel for the petitioners. Having considered the submissions of the learned counsel for the petitioners and Annexure-B final report in Crime No.286/2003 of Fort Police Station, Trivandrum, it does not appear to me that the case charge sheeted against the petitioners under Sections 447, 323, 294(b) read with Section 34 of IPC deserve to be quashed by this court. It is a matter for consideration by the trial court on the basis of evidence and this court cannot by pursuing Annexure-B only come to the conclusion that the allegation is false; that the case is not to end in conviction of the petitioners or that the proceeding is an abuse of the process of court. In the result, I dismiss this Criminal M.C. All the same, as the petitioners' counsel submits that the first petitioner who is the first accused in the case is a very aged person who is suffering from cancer and is ailing, I direct the court below to consider his application, if any, filed seeking for exemption favourably and not to insist for his personal appearance on all posting dates of the case unless of course his presence is found absolutely necessary for the progress of the case.

K.P.BALACHANDRAN
Judge

pms